

CLOSED, ECF

**U.S. District Court
Southern District of New York (White Plains)
CIVIL DOCKET FOR CASE #: 7:11-cv-05109-VB**

Riverkeeper, Inc. v. Office of Management and Budget
Assigned to: Judge Vincent L. Briccetti
Cause: 05:552 Freedom of Information Act

Date Filed: 07/25/2011
Date Terminated: 06/04/2012
Jury Demand: None
Nature of Suit: 895 Freedom of Information Act
Jurisdiction: U.S. Government Defendant

Plaintiff**Riverkeeper, Inc.**

represented by **Reed Wayne Super**
Super Law Group, LLC
131 Varick Street, Suite 1001
New York, NY 10013
(212)-242-2273
Fax: (646) 478-9258
Email: reed@superlawgroup.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

V.

Defendant**Office of Management and Budget**

represented by **Tomoko Onozawa**
U.S. Attorney's Office, SDNY (Chambers Street)
86 Chambers Street
New York, NY 10007
(212) 637-2721
Fax: (212) 637-2686
Email: tomoko.onozawa@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
07/25/2011	<u>1</u>	COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF against Office of Management and Budget. (Filing Fee \$ 350.00, Receipt Number 1012446) Document filed by Riverkeeper, Inc. (mml) (Entered: 07/27/2011)
07/25/2011		SUMMONS ISSUED as to Office of Management and Budget, U.S. Attorney and U.S. Attorney General. (mml) (Entered: 07/27/2011)
07/25/2011		Case Designated ECF. (mml) (Entered: 07/27/2011)
07/25/2011		Magistrate Judge Lisa M. Smith is so designated. (mml) (Entered: 07/27/2011)
07/25/2011	<u>2</u>	RULE 7.1 CORPORATE DISCLOSURE STATEMENT. No Corporate Parent. Document filed by Office of Management and Budget. (mml) (Entered: 07/27/2011)
08/04/2011	<u>3</u>	NOTICE OF APPEARANCE by Tomoko Onozawa on behalf of Office of Management and Budget (Onozawa, Tomoko) (Entered: 08/04/2011)
08/22/2011	<u>4</u>	STIPULATION TO EXTEND DEFENDANT'S TIME TO ANSWER, that the time for the Defendant to answer or otherwise respond to the complaint, be and the same hereby is, extended to and including September 7, 2011. Office of Management and Budget answer due 9/7/2011. (Signed by Judge Vincent L. Briccetti on 8/22/2011) (lnl) (Entered: 08/22/2011)

09/07/2011	<u>5</u>	ANSWER to <u>1</u> Complaint. Document filed by Office of Management and Budget.(Onozawa, Tomoko) (Entered: 09/07/2011)
09/09/2011	<u>6</u>	NOTICE OF INITIAL COURT CONFERENCE: The matter has been scheduled for an Initial Case Management and Scheduling Conference on 9/29/2011 at 9:45am at the United States Courthouse, 300 Quarropas Street, White Plains, New York 10601.PLAINTIFF, OR COUNSEL FOR PLAINTIFF(S), SHALL NOTIFY ALL PARTIES, IN WRITING, OF THE CONFERENCE DATE AND TIME, AND PROVIDE ALL PARTIES WITH A COPY OF THIS NOTICE AND THE ATTACHED CIVIL CASE DISCOVERY PLAN AND SCHEDULING ORDER (UNLESS THE CASE HAS BEEN REMOVED FROM STATE COURT, IN WHICH EVENT COUNSEL FOR THE REMOVING DEFENDANT(S) SHALL PROVIDE SUCH NOTICE TO ALL PARTIES. Case Management Conference set for 9/29/2011 at 09:45 AM before Judge Vincent L. Briccetti. (rj) (Entered: 09/09/2011)
09/12/2011	<u>7</u>	SUMMONS RETURNED EXECUTED. Office of Management and Budget served on 7/26/2011, answer due 9/26/2011. Service was made by MAIL. Document filed by Riverkeeper, Inc.. (Attachments: # <u>1</u> Affidavit Proof of Service, # <u>2</u> Exhibit Supplementary Statement and Photocopies of Receipts)(Super, Reed) (Entered: 09/12/2011)
09/19/2011	<u>8</u>	ENDORSED LETTER addressed to Judge Vincent Briccetti from Tomoko Onozawa dated 9/16/2011 re: The Government writes respectfully in response to the Court's Notice of Initial Court Conference, date September 9,2011. ENDORSEMENT: Application Granted. The parties need not submit a proposed civil case discovery plan and scheduling order at this time. The initial court conference is rescheduled to October 4,2011 at 10:15am.(Initial Conference set for 10/4/2011 at 10:15 AM before Judge Vincent L. Briccetti.) (Signed by Judge Vincent L. Briccetti on 9/19/2011) (rj) (Entered: 09/19/2011)
10/04/2011	<u>9</u>	STIPULATION AND ORDER REGARDING DOCUMENT SEARCHES AND PRODUCTION BY DEFENDANT: Plaintiff's FOIA Request is hereby amended to remove all references to Executive Order No. 12,866,58 Fed. Reg. 51,735 (Oct. 4, 1993) and any of its provisions. Annexed hereto as Exhibit A is a copy of the amended FOIA Request. (See STIPULATION AND ORDER as set forth) (Signed by Judge Vincent L. Briccetti on 10/04/2011) (lnl) (Entered: 10/05/2011)
10/04/2011		Minute Entry for proceedings held before Judge Vincent L. Briccetti:Conference held. Next status conference 1/6/12 at 10:00 a.m. Initial Pretrial Conference held on 10/4/2011, (Status Conference set for 1/6/2012 at 10:00 AM before Judge Vincent L. Briccetti.). (rj) (Entered: 10/11/2011)
12/22/2011	<u>10</u>	SECOND STIPULATION AND ORDER REGARDING DOCUMENT SEARCHES AND PRODUCTION BY DEFENDANT: Paragraph 5 of the First Stipulation is amended solely to provide that, no later than January 20, 2012, Defendant will complete processing of the remaining responsive documents located in Defendant's searches for "all documents exchanged between OIRA and the [EPA] during interagency review for EPA's proposed cooling water intake structure rule (RJN 2040-AE95)." All other provisions of the First Stipulation will remain in effect. (Signed by Judge Vincent L. Briccetti on 12/22/2011) (See STIPULATION as set forth) (lnl) (Entered: 12/22/2011)
12/22/2011	<u>11</u>	ENDORSED LETTER addressed to Judge Vincent L. Briccetti from Tomoko Onozawa, dated 12/21/2011, re: Counsel for the defendant Office of Management and Budget writes to request a four-week adjournment of the status conference scheduled for January 6, 2012 at 10:00 a.m. for the reasons set forth in this letter. ENDORSEMENT: Status conference currently scheduled for 1/6/12 is adjourned to Feb. 15, 2012 at 9:45 a.m. So Ordered. (Status Conference set for 2/15/2012 at 09:45 AM before Judge Vincent L. Briccetti) (Signed by Judge Vincent L. Briccetti on 12/22/2011) (lnl) (Entered: 12/22/2011)
03/02/2012		Minute Entry for proceedings held before Judge Vincent L. Briccetti: Pretrial Conference held on 3/2/2012. PTC held. Letter by 3-30-12 regarding settlement or a proposed summary judgment schedule. (fk) (Entered: 03/02/2012)

03/30/2012	<u>12</u>	ENDORSED LETTER addressed to Judge Vincent L. Briccetti from Reed W. Super dated 3/30/2012 re: Plaintiff's expect to be in a position to report to the Court by May 2, 2012, as to whether this final issue has been resolved or whether motion practice will be necessary. ENDORSEMENT: So Ordered. Parties are directed to submit status report by 5/2/2012., (Status Report due by 5/2/2012.) (Signed by Judge Vincent L. Briccetti on 3/30/2012) (rj) (Entered: 04/02/2012)
05/02/2012	<u>13</u>	ENDORSED LETTER addressed to Judge Vincent L. Briccetti from Tomoko Onozawa dated 5/2/2012 re: The government writes on behalf of all the parties to respectfully request an extension of time from May 2, 2012 to May 25, 2012 to submit a joint letter informing the Court that the parties have either resolved plaintiff's request for attorneys' fees and costs, the parties wish to have this matter referred to the assigned judge for settlement, or the parties will proceed with motion practice on the attorneys' fees issue. ENDORSEMENT: Application Granted. (Signed by Judge Vincent L. Briccetti on 5/2/2012) (rj) (Entered: 05/03/2012)
05/29/2012	<u>14</u>	ENDORSED LETTER addressed to Judge Vincent L. Briccetti from Reed W. Super dated 5/25/2012 re: The parties respectfully request that the Court stay the parties' outstanding obligations in this matter to permit them to reduce their agreement to writing and to submit the agreement for the Court's endorsement. ENDORSEMENT: Application Granted. The parties are directed to submit the settlement agreement by 6/29/12. (Signed by Judge Vincent L. Briccetti on 5/29/2012) (rj) (Entered: 05/30/2012)
06/04/2012	<u>15</u>	STIPULATION AND ORDER OF SETTLEMENT AND DISMISSAL:NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and among Plaintiff and Defendant as follows:Pursuant to Rule 41(a)(1)(A) of the Federal Rules of Civil Procedure. this action is dismissed with prejudice. 2. As soon as reasonably practicable after the Court has endorsed and docketed this Stipulation and Order, Defendant shall pay to Plaintiff the sum of sixteen thousand dollars (\$16,000.00) in attorneys fees and litigation costs, pursuant to 5 U.S.C. § 552(a)(4)(E), which sum Plaintiff agrees to accept as full payment of any attorneys fees and costs it has incurred in this action. 3. Upon payment of the amount set forth in the preceding paragraph, Plaintiff releases the United States, its agencies, departments, officers, employees, servants, and agents, including OMB, from any claims for attorneys fees, costs and expenses of any kind, and however denominated, relating to services performed in connection with this matter,4. Nothing in this Stipulation and Order shall constitute an admission by Defendant or the United States that Plaintiff substantially prevailed in this case under 5 U.S.C. § 552(a)(4)(E) 5. The parties understand and agree that this Stipulation and Order contains the entire agreement between them, and that no statements, representations, promises, agreements, or negotiations, oral or otherwise, between the parties or their counsel that are not included here in shall be of any force or effect. 6. The parties agree that the United States District Court for the Southern District of New York shall retain jurisdiction over any controversy or claim arising out of or relating to this Stipulation and Order. 7. This Stipulation and Order shall have no effect or bearing on any other FOIA request made by Plaintiff or any other FOIA litigation filed by Plaintiff. 8. This Stipulation and Order may be executed in counterparts. Facsimile signatures shall constitute originals. (Signed by Judge Vincent L. Briccetti on 6/1/2012) (rj) (Entered: 06/04/2012)